IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.K.DENESAN

FRIDAY, THE 15TH DECEMBER 2006 / 24TH AGRAHAYANA 1928

WP(C).No. 28217 of 2006(H)

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PETITIONER:

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H.MONY, S/O.LATE HAREES,
MONY BHAVAN, ARUVIKULAM,
THADATHARIKATH VEEDU, VALIYARA,
VELLANADU VILLAGE, THIRUVANANTHAPURAM DISTRICT.

BY ADV. SRI.GEORGE JACOB (JOSE)

RESPONDENTS:

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1. THE STATE OF KERALA,
REP. BY THE SECRETARY,
DEPARTMENT OF HEALTH & FAMILY WELFARE,
SECRETARIAT, THIRUVANANTHAPURAM.

2. THE DIRECTOR,
INDIAN SYSTEM OF MEDICINES,
AROGYA BHAVAN, PUTHENCHANDA,
THIRUVANANTHAPURAM.

3. THE DISTRICT MEDICAL OFFICER (AYURVEDA),
INDIAN SYSTEM OF MEDICINE,
AROGYA BHAVAN, PUTHENCHANDA,
THIRUVANANTHAPURAM.

BY GOVT. PLEADER SHRI. BIJOY CHANDRAN

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 15/12/2006, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

**K.K.DENESAN, J.**

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**WP(C)No. 28217 OF 2006**

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**Dated this the 15th December, 2006.**

**JUDGMENT**

The petitioner is the widower of deceased Kunjamma who was an employee in the department of Indian Systems of Medicine. Smt. Kunjamma had retired from service on 31.5.1999 and while continuing as pensioner she met with her end on 31.5.2005. The spouses have no issues. The petitioner submits that he has adopted a child and that child is being looked after by him. It is also stated that he remains unmarried since the death of his former wife. It is claimed that he is entitled for family pension being the widower of Smt.Kunjamma. The claim made by him was not considered by the respondents. Feeling aggrieved this writ petition has been filed. He has prayed for a direction to the respondents to disburse the family pension due to him from 1.6.2005 with interest. Though notice has been served on the respondents, none has filed counter affidavit.

2. Having regard to the urgency pointed out, this writ petition is disposed of as follows.

3. Ext.P1 is the marriage certificate issued by the Diocese of Neyyattinkara certifying the marriage between the petitioner and Smt. Kunjamma. Ext.P2 is the death certificate issued on 15.6.2005 by the Panchayath

authorities where deceased Kunjamma was residing. Ext.P3 is the Certificate issued by the President of Vellanad Grama Panchayath cerifying that the petitioner remains unmarried after the death of his former wife. Ext.P4 is the certificate issued by the Tahsildar showing that the petitioner is the legal heir of his deceased wife. Counsel for the petitioner says that the child aged four years whose name is shown in Ext.P4 is the adopted child referred to above. Ext.P5 is the pension payment order issued by the Accountant General in respect of Smt. Kunjamma.

4. The petitioner had submitted Ext.P6 representation before the third respondent claiming family pension. Ext.P6 refers to a gazette notification certifying that there is no legal heir other than the petitioner. Ext.P7 is the representation filed by the petitioner and pending with the respondents.

5. In the above circumstances it is only just and proper that the second respondent takes up for consideration the claim of the petitioner for family pension, process the application as expeditiously as possible and take appropriate decision in the light of Rule 90 of Part III K.S.R. This shall be done within six weeks on receipt of a copy of this judgment. Family pension found due based on such decision with arrears shall be

disbursed to the petitioner within three months thereafter. Needless to state that eligible family pension shall be paid to the petitioner in the succeeding months.

The writ petition is disposed of as above. The petitioner shall produce a copy of this judgment before the second respondent for necessary action.

**K.K.DENESAN**
**Judge**

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